IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10060 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SUMANGALAM EDUCATION & CHARITABLE TRUST, RAJKOT - Petitioner(s)
Versus
STATE OF GUJARAT THR'; COMMISSIONER & 4 - Respondent(s)

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Appearance :

MS MAMTA R VYAS for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1 - 2.
MR JJ YAJNIK for Respondent(s) : 3, 5,
RULE SERVED for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 21/09/2006

ORAL JUDGMENT

1. The petitioner has challenged a communication

dated 21-4-2006 by which the Additional Director of Medical Education and Research, Gandhinagar, State of Gujarat, conveyed to the petitioner that it is not possible to grant attachment to the Nursing School of the petitioner with P.D.U. Hospital at Rajkot.

2. The petitioner wishes to set up a nursing college. For the said purpose, it is necessary that there is attachment with a hospital in which the students would be able to take practical training in nursing. The petitioner applied for such an attachment to the Government in P.D.U. Hospital at Rajkot. Such a request was however, turned down by impugned communication dated 21-4-2006. On account of this refusal, the recognition of the petitioner by Indian Nursing Council has been stalled. The petitioner has therefore, filed the petition challenging the said communication passed by the Government.

3. In response to the notice issued by this Court, Government has filed a detailed affidavit dated

10-7-2006. In the said affidavit, it is mainly contended that P.D.U. Hospital at Rajkot already provides training to 50 students of PDU Medical College at Rajkot, 30 students of Government Nursing School at Rajkot and 60 students of R.K. College of Physiotherapy at Rajkot. It is additionally contended that P.D.U. Hospital at Rajkot has contemplated its increase in capacity from 50 seats to 100 seats and R.K. College of Physiotherapy also has requested for increasing its present quota of 60 seats to 100 seats. It is contended that up-gradation of the present Government Nursing School to Nursing College is also under consideration. In short, it is conveyed through the said affidavit in reply that existing infrastructure of P.D.U. Hospital at Rajkot is insufficient to grant any further attachment to the petitioner or any other nursing institutions.

4. The petitioner has filed affidavit in rejoinder and controverted certain factual aspects of the matter. In the nutshell, it is the case of the

petitioner that the petitioner is the only self finance Nursing institution which has received necessary permission for starting the Nursing College in Saurashtra. It is contended that P.D.U. Hospital at Rajkot has more than 150 beds and as per the statement of Indian Nursing Council, can accommodate much larger number of nurses under training. It is contended that students of physiotherapy would have no relevance so far as the intake capacity of a Hospital for attachment of Nursing students is concerned. Learned advocate for the petitioner further submitted that P.D.U. Hospital at Rajkot had sent proposal of the petitioner as well as R.K. College of physiotherapy simultaneously to the Government pursuant to which though R.K. College of physiotherapy was granted attachment, the petitioner was denied such a facility.

5. Having heard learned advocates appearing for the parties, I find that though the petitioner has received initial permission to start the Nursing

College, same cannot be done without attachment with the Hospital which would ensure that Nursing student gets practical training. With respect to the capacity of P.D.U. Hospital at Rajkot to permit any further attachment, there are rival claims set up by the petitioner as well as the Government. However, in rejoinder affidavit, the petitioner has produced further material to suggest that considering the capacity of the Hospital, large number of Nursing students can be accommodated for training than those who are currently receiving such training. The question whether the training of physiotherapy students would conflict with the Nursing students is also a question which calls for consideration.

6. Considering all these aspects of the matter, I find that issue is required to be reconsidered by the Government. In view of this, it is provided that if the petitioner makes a representation to the Government placing additional material before the authorities, the

same shall be considered unmindful of earlier impugned communication. If the petitioner makes such a representation within a period of two weeks from today, same be disposed of expeditiously and preferably within a period of four weeks of its receipt.

7. With these directions, the petition is disposed of. Rule made absolute accordingly with no order as to costs.

Direct service is permitted.

(Akil Kureshi, J.)

(raghu)